

FILED

NOT FOR PUBLICATION

FEB 17 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CRUZ REGIN-LUCANO,

Defendant - Appellant.

No. 04-50106

D.C. No. CR-03-01996-BTM

MEMORANDUM^{*}

Appeal from the United States District Court
for the Southern District of California
Barry T. Moskowitz, District Judge, Presiding

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Cruz Regin-Lucano appeals from the 46-month sentence imposed following his guilty plea conviction for importation of marijuana in violation of 21 U.S.C. §§ 952 and 960. We have jurisdiction under 28 U.S.C. § 1291.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The parties agree that because the district court sentenced Regin-Lucano at a time when the United States Sentencing Guidelines were mandatory, a limited remand pursuant to *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc), is appropriate.

REMANDED. MANDATE TO ISSUE FORTHWITH